

KENTUCKY SALES AND USE TAX
Guide for Auctioneers
Revised 2005

The following section was updated by the Department of Revenue in October 2005. This guide is intended for general informational and educational purposes for licensed Kentucky auctioneers, apprentice auctioneers, and auction house operators only; and, as such, may not be suitable for any other purpose.

Introduction: Kentucky Sales and Use Tax is regulated by a combination of statutory law (Kentucky Revised Statutes, Chapter 139), regulations, and case law resulting from court cases. The administration of Kentucky's Sales and Use Tax is delegated to the Kentucky Department of Revenue (DOR). The following is a guide of Kentucky Sales and Use Tax laws and regulations which are relevant to many common auction situations in Kentucky. This guide is not intended to cover all possible auction situations. The Kentucky Board of Auctioneers has compiled this guide with the assistance of the Kentucky DOR.

Any specific questions regarding Kentucky Sales and Use Tax should be addressed to the Kentucky DOR, Division of Sales and Use Tax, 200 Fair Oaks Lane, Frankfort, KY 40602 at 502-564-5170.

Sales Tax: Kentucky Sales Tax is a tax imposed upon all retailers, at the rate of six percent (6%), for the privilege of making "retail sales" or "sales at retail" within the Commonwealth of Kentucky (KRS 139.200). The Kentucky Sales Tax Law defines a seller as "every person engaged in the business of selling tangible personal property, . . . and every person engaged in making sales for resale." (KRS 139.140).

Use Tax: The Use Tax is a backstop to the Sales Tax and applies to tangible personal property purchased for storage, use or other consumption in Kentucky upon which the Sales Tax has not been paid (KRS 139.310). Property purchased, leased, or rented outside Kentucky for storage, use, or other consumption in Kentucky is subject to the Use Tax. If tangible personal property is purchased for resale, but then used instead of being resold, it is subject to Use Tax.

Auctioneer's Responsibility: The law makes it very clear that all sales of tangible personal property at auction, inside the Commonwealth of Kentucky, are subject to Kentucky Sales Tax. All auctioneers conducting an auction in Kentucky are required, themselves or through their auction company, to obtain and maintain a Sales and Use Tax permit (KRS 139.240).

The Kentucky Sales Tax law considers the auctioneer as the party responsible for remitting any and all Sales Tax due from any and all auctions, regardless of whether or not the tax was collected. Due to the nature of most sales at auction, auctioneers are seldom involved with the collection of Use Tax. However, auctioneers and/or their businesses are liable for Use Tax on their out-of-state purchases.

Charity Auctions: The auctioneer is responsible for collecting the Kentucky Sales Tax due at all auctions. It does not matter that the auctioneer is paid to conduct the auction or is donating his/her time to a charity, government entity, church, or educational organization. While many of these organizations may be Sales Tax exempt on items that they purchase to use, this exemption does not cover items that they sell.

Gross Receipts - Buyer's Premium: The Sales Tax statutes clearly establish the presumption that all gross receipts are taxable "until the contrary is established." The "burden of proof" that an item is non-taxable is not on the purchaser, but on the "retailer" (auctioneer) (KRS 139.260).

Buyer's Premium: At auctions with a buyer's premium, the Sales Tax is computed on the total amount of the sale including the buyer's premium. Sales Tax is imposed on the retailer's (auctioneer's) "gross receipts" which is defined as "the total amount of the sale" including any services that are a part of the sale (KRS 139.050). Therefore, the Department of Revenue has defined the "sales price," at auctions with a buyer's premium, as the bid price plus the buyer's premium, plus any charges by the retailer for services necessary to complete the sale.

Customer Receipts: The auctioneer must provide each purchaser a receipt showing the sales price of the property sold and the amount of sales tax collected (KRS 139.210)(1).

Remittance: Auctioneers must remit Sales Tax due to the Kentucky DOR according to their assigned filing schedule. The DOR assigns a monthly, quarterly, or annual filing schedule based on the auctioneer's amount of tax due. The tax receipts are submitted within 20 days of the end of the assigned period. If you had no sales during that period, a signed return is still required. Again, the Kentucky Sales Tax law holds the auctioneer as the party responsible for remitting all Sales Tax due from an auction.

The law states "taxes to be collected under this section shall constitute a debt of the retailer to the Commonwealth" (KRS 139.210) (4).

Records: All auctioneers are required by law to keep all "records, receipts, invoices, and other pertinent papers in such form as the cabinet may require." This of course includes all auction records and exemption certificates. The law also requires these records are kept for a minimum of four years (KRS 139.720).

Maintenance of these records for the minimum period is especially important in light of the fact that the law allows the DOR four (4) years from when the return was filed to audit the return. It is imperative that the records and files be complete, detailed, accurate, and kept up to date. The Sales Tax law contains a presumption that all gross receipts are taxable until the contrary is established. It is the auctioneer's responsibility to maintain adequate records to overcome this presumption.

Audit: The Kentucky Revised Statutes places the responsibility for the administration and collection of the Kentucky Sales and Use Tax upon the DOR. As part of its administrative duties, the Department is responsible for conducting audits of Sales and Use Tax Returns. The DOR has conducted Sales Tax audits of auctioneers in the past and is expected to continue these audits in the future. Remember that the auctioneer is responsible for all Sales Tax due, regardless if the tax was or was not collected from the customer. In accordance with KRS 131.183 interest will be assessed on any underpayment of Sales and Use Taxes and penalties may be imposed (KRS 131.180).

Non-Taxable Items: Sales and Use Tax in Kentucky applies to all sales of tangible personal property. By definition, Sales and Use Tax does not apply to real estate or to most services. There are three major categories of tangible personal property often sold at auction in Kentucky that are either exempt from the Sales and Use Tax or are not subject to the tax.

1. Property specifically exempt under the law
2. Property purchased for resale
3. Transactions specifically exempt under the law

1. Property specifically exempt under the law: There are numerous items that are, by statute, exempt from Sales and Use Tax. These include certain food items, farm machinery and agricultural items sold to farmers for specific uses, machinery for new and expanded industry, alcohol production facilities, fuel for residential purposes, qualified commercial ships and vessels, locomotives, tombstones, returnable containers, and others.

Due to space limitations, we shall look in detail at common non-taxable items most likely encountered by auctioneers.

139.485 Exemption of food items -- Definitions. Amended 7/1/04

(1) Except as otherwise provided, the terms "retail sale," "use," "storage," and "consumption" as used in this chapter shall not include the sale, use, storage or consumption of food and food ingredients for human consumption.

(2) The term "food" and food ingredients as used in subsection (1) of this section means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" shall not include:

- (a) Alcoholic beverages;
- (b) Tobacco;
- (c) Candy;
- (d) Dietary supplements;
- (e) Soft drinks; and
- (f) Prepared food.

(3) For purposes of this section:

- (a) "Alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume;
- (b) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco;
- (c) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include:
 1. Any preparation containing flour; or
 2. Any item requiring refrigeration;
- (d) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:
 1. Contains one (1) or more of the following dietary ingredients:
 - a. A vitamin;

- b. A mineral;
 - c. An herb or other botanicals. An amino acid;
 - e. A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or
 - f. A concentrate, metabolite, constituent, extract, or combination of any ingredient described above;
 - 2. Is intended for ingestion in tablet, capsule, powder, soft gel, gel cap, or liquid form or, if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and
 - 3. Is required to be labeled as a dietary supplement, identifiable by the "Supplement facts" box found on the label as required pursuant to 21 C.F.R. 101.36;
 - (e) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products, soy, rice, or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by volume;
 - (f) "Food sold through vending machines" means food dispensed from a machine or other mechanical device that accepts payment;
 - (g) "Prepared food" means:
 - 1. Food sold in a heated state or heated by the retailer;
 - 2. Two (2) or more food ingredients mixed or combined by the retailer for sale as a single item except food that is only cut, repackaged, or pasteurized by the retailer, eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of the FDA Food Code so as to prevent food-borne illnesses; or
 - 3. Food sold with eating utensils provided by the retailer, including plates, knives, forks, spoons, glasses, cups, napkins, or straws;
 - (h) Notwithstanding paragraph (g) of this subsection, "prepared food" shall not include the following items if sold without eating utensils provided by the seller:
 - 1. Food sold by a seller whose proper primary North American Industry Classification System classification is manufacturing in sector 311, except subsector 3118; or
 - 2. Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danishes, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.
 - (4) Notwithstanding the provisions of subsection (1) of this section, "food and food ingredients" sold through vending machines, nonmechanical self-service vending systems, or by street vendors shall be subject to the tax imposed by this chapter.
- Effective: July 1, 2004

Farm Machinery and Agricultural Items

Some farm machinery and agricultural items sold for specific uses are tax exempt. The majority of these items would fall under the Farm Exemption Certificate (Form 51A158), and the On-Farm Facilities Certificate of Exemption for Materials, Machinery, and Equipment (Form 51A159). The purchasers will not have an exemption number. The appropriate form is signed and completed. The auctioneer must demonstrate "good faith" in accepting the certificate by determining that the item(s) are allowable for the specific certificate and that, to the best knowledge of the auctioneer, the purchaser intends to use the item(s) solely in an exempt manner. The DOR is very strict on these requirements.

(a) Farm Machinery, attachments, and repair and replacement parts. The statutes defines "farm machinery" as "machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale." The term "farm machinery," includes "machinery, attachments, and replacements therefore, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations" (KRS 139.480)(11).

Examples of items which qualify for exemption in addition to the more commonly known items of "farm machinery" are: irrigation systems, tobacco curing equipment, farm wagons, portable insecticide sprayers, chain saws, mechanical posthole diggers, silo unloaders (augers), grain and hay elevators, milking machines, automatic egg gathering systems, egg processing equipment, automatic feeding equipment, automatic waterers, tobacco transplant clipping system, tobacco transplant heating systems including fans, and tobacco transplant seeding systems.

If a farmer wishes to claim the farm machinery exemption, the farmer must properly complete a Farm Exemption Certificate (Form 51A158). Sellers failing to obtain a valid certificate will be held liable for the sales and use tax.

(b) Agricultural Items. These are agricultural items that are not considered “farm machinery,” but do fall into one of the following categories. A purchaser must be buying the agricultural item(s) to be “used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale or raising and feeding llamas, alpacas, ratites, buffalo, or aquatic organisms as an agricultural pursuit.” In order to claim the exemption from tax, the purchaser must properly complete a Farm Exemption Certificate (Form 51A158). Again, sellers failing to obtain a valid certificate will be held liable for the sales and use tax.

The following agricultural items are exempt from Kentucky Sales and Use Tax when purchased by a farmer and the farmer has properly completed and signed the Farm Exemption Certificate (Form 51A158).

1. Seed and fertilizer. Seeds, the products of which ordinarily constitute food for human consumption, or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the productions of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing (KRS 139.480)(7).

2. Feed and feed additives. Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption (KRS139.480)(30) for ratites (KRS139.480)(24), llamas and alpacas (KRS139.480)(26), buffalo (KRS139.480)(27), or aquatic organisms (KRS 139.480)(9). These exemptions do not include feed or feed additives for farm work stock.

3. Livestock. Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming (KRS 139.480)(4).

4. Farm work stock. Farm work stock for use in farming operations (KRS 139.480) (6).

5. Gasoline, special fuels, natural gas, and liquefied petroleum gas. Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to operate farm machinery, on-farm grain/soybean facilities, on-farm poultry, livestock, ratite, llama, alpaca, dairy(KRS139.48)(16), or aquaculture facilities (KRS139.480)(30).

6. Baling twine and baling wire. Baling twine and baling wire for the baling of hay and straw (KRS 139.480) (27).

(c) On-farm facilities exemption. Machinery, equipment, attachments, and repair/replacement parts therefore to be incorporated into a new facility or an existing on-farm facility may be purchased Sales Tax exempt. KRS 139.480 provides the following examples of machinery and equipment that can qualify for the on-farm facilities exemption:

1. Vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems used in raising poultry and livestock

2. Incubation systems, egg processing equipment, water and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems used in raising ratites

3. Waterer and feeding systems, ventilation systems, and alarm systems used in raising llamas and alpacas or buffalo

4. Waterer and feeding systems, ventilation, aeration, and heating systems, processing and storage systems, production systems such as ponds, tanks, and raceways, harvest and transport equipment and systems, and alarm systems for producing products of aquaculture

The On-Farm Facilities Certificate of Exemption for Materials, Machinery, and Equipment (Form 51A159) may be executed only for those purchases of materials, machinery, and equipment which will be incorporated into the initial construction of the on-farm facilities exempt under the Sales and Use Tax law. These facilities are on-farm grain/soybean facilities, on-farm livestock or poultry raising facilities, on-farm buffalo raising facilities, on-farm ratite raising facilities, on-farm aquaculture facilities, and on-farm llama or alpaca raising facilities. The use of this certificate by the purchaser constitutes the issuance of a blanket certificate and will remain valid until the completion of the construction project. Farm Exemption Certificate (Form 51A158), must be executed for all subsequent purchases of material to be incorporated into the repair or renovation of an existing on-farm facility.

Horse Industry: For Sales and Use Tax purposes, horses are not considered livestock since they are not normally considered food for human consumption. Therefore, no exemption is available for feed, farm machinery, supplies, equipment, tack, etc. used in raising, training, or boarding horses. However, there are times that the sale of horses is exempt from Sales Tax (KRS 139.531).

Sales for Resale: The auctioneer may accept a Kentucky Resale Certificate (Form 51A105) from the purchaser who is regularly engaged in the business of selling horses provided that the auctioneer takes the certificate in "good faith." See the discussion on the "good faith" acceptance of resale certificates.

Farm Work Stock: Horses and mules used in farming operations as farm work stock can be purchased Sales Tax exempt by a person regularly engaged in the business of farming (KRS139.480(6)). When selling farm work stock, the auctioneer must obtain a properly completed Farm Exemption Certificate (Form 51A158) from the farmer.

Breeding Stock: Horses purchased exclusively for breeding purposes may be exempt from Sales Tax. A colt, stallion, filly, or broodmare two or more years of age may qualify for this exemption. The auctioneer must obtain from the purchaser the following statement and information on the face of the invoice in order to claim the exemption.

This horse is purchased for breeding purposes only.

Date

Purchaser's Name

Purchaser's Address

Purchaser's Social Security Number or FEIN

Purchaser's Signature

Horses Less Than Two (2) Years of Age: Horses less than two (2) years of age at the time of sale may be purchased exempt from Sales Tax. The age of the horse is to be determined in accordance with the acceptable industry practice for that particular breed. Thoroughbreds' birthdays are recognized as January 1 in the year of their birth. The age for all other breeds is determined by their actual date of birth. KRS 139.531 was amended effective June 1, 2005 to exempt sales of horses younger than two years to nonresidents by eliminating a prior requirement that the horse be transported out of state.

2. Items purchased for resale. Items purchased for resale (not for use) by qualified purchasers (dealers) are not subject to Kentucky Sales Tax. This includes materials (not machinery and/or equipment) used and consumed directly in the manufacturing or industrial processing of tangible personal property which will be resold (KRS 139.470)(11). Repair, replacement or spare parts shall not be considered materials exempt pursuant to KRS 139.470(11). The purchaser must be registered with the Kentucky Revenue Cabinet and hold a Sales and Use Tax Permit Number (KRS 139.240). The purchaser must properly complete and sign the Resale Certificate (Form 51A105) in its entirety. It is important that the certificate clearly indicates the specific item(s) purchased. **Repair, replacement, or spare parts shall not be considered materials exempt per KRS 139.470(11) and is defined in KRS139.170 (4).** A Resale Certificate will not be considered valid and acceptable to the Kentucky Revenue Cabinet unless the auctioneer took the certificate in "good faith."

KRS139.270 (2) states: effective 7/1/2005

"Good faith" shall be demonstrated by the retailer or seller if the retailer or seller:

- (a) Accepts a properly completed resale certificate or certificate of exemption;
- and
- (b) Maintains a file of the certificate in accordance with KRS139.720.

Single purchase or blanket: The resale certificate may either be designated as "single purchase" or "blanket." If the certificate is marked "single purchase," then the certificate is only valid for that specific transaction. If the certificate is marked "blanket," then this certificate is valid for that transaction and all subsequent transactions as long as the auctioneer continues to exercise "good faith." There is no "expiration" period or date on a "blanket" certificate. However, it is the responsibility of the auctioneer to periodically check and update the "blanket" certificate to be sure the information is accurate.

Note: Purchasers, holding a permit number in the nine hundred thousand (900,000) range, are not authorized to use resale certificates for their purchases. These numbers are assigned to businesses for the purpose of reporting Use Tax.

3. Transactions specifically exempt under the law

a. Items purchased for use by a Resident Non-Profit Institution. Items purchased by certain qualified resident non-profit charitable, educational, and religious institutions and historical sites are exempt from Kentucky Sales Tax. These institutions and historical sites must hold a Purchase Exemption

Number and properly complete and sign the Purchase Exemption Certificate Form (Form 51A126). The auctioneer is also required to exercise "good faith" in the acceptance of this type of certificate, pursuant to the requirements of KRS 139.270.

b. Items purchased for use by a government entity. Government entities making purchases of tangible personal property for use in the government function may purchase such items exempt from Sales Tax. The government entity must provide the auctioneer a copy of their tax-exempt authorization letter.

Purchasers From Out of State: Purchasers from other states buying inside of Kentucky are subject to Kentucky Sales and Use Tax laws and regulations. It is important that these out of state purchasers understand that the sales tax laws of their state do not apply in Kentucky. In many cases, out of state purchasers believe that if they are purchasing an item(s) which is tax exempt in their state that this exemption will also be recognized in Kentucky. This is often not the case.

Also, many other states have exemptions, which are not recognized in Kentucky, such as other states' "Enterprise Zones" and "Blanket Exemption Certificates." Purchasers from out of state buying non-exempt tangible personal property must pay Kentucky Sales Tax unless:

1. The property sold in Kentucky is delivered by the seller (the auctioneer) to a destination outside Kentucky (proper shipping records and documents are required to be kept on file), the purchaser or his representative is responsible for shipping the property out of state, never to return to the state,
OR

2. The purchaser is buying for resale in which case the auctioneer must still demonstrate "good faith" and the purchaser must properly complete and sign a Kentucky Resale Certificate (Form 51A105) with a notation that they are a non-resident purchaser not required to hold a Kentucky Sales and Use Tax Permit. While it is not required, obtaining the purchaser's out of state Sales Tax Permit Number is helpful in proving that they are an established "dealer" buying for resale.

Note - Kentucky now accepts "Multi-state Jurisdiction Exemption Certificates" for out of state purchasers buying for resale and accepted in "good faith". A resale certificate from another state is not acceptable in Kentucky.

Enterprise Zones: Certain areas throughout the Commonwealth have been designated as "Enterprise Zones." This designation is given to those areas, which are usually economically depressed, to stimulate growth and capital investment. Businesses that locate in an "Enterprise Zone" can qualify for certain tax breaks, however some zones have expired. The Louisville and Hickman enterprise zones expired December 31, 2003. The Ashland and Covington enterprise zones expired December 31, 2004, and the Lexington and Owensboro zones will expire December 31, 2005.

Qualified businesses or property owners within an "Enterprise Zone" are exempt from the Kentucky Sales and Use Tax for certain tangible personal property. An owner of property located in an enterprise zone may purchase building materials for use in new construction, rehabilitation, or remodeling of an existing building without payment of the Sales Tax. The property owner is required to issue Enterprise Zone Exemption Certificate (Form 51A152). An enterprise zone "Qualified Business" may purchase new and used machinery and equipment exempt from Sales Tax. The "Qualified Business" is required to issue an Enterprise Zone Exemption Certificate (Form 51A151).

The purchaser must properly complete and sign the Enterprise Zone Exemption Certificate (Form 51A151 or 51A152) in duplicate. One copy is to be retained by the auctioneer and one copy provided to the Kentucky DOR as an attachment to the Sales and Use Tax return, which will claim the corresponding Enterprise Zone deduction on line 17. The certificate's completeness, detail, and accuracy are crucial because they provide the auctioneer with the documentation of an exempt sale. Once a certificate is executed, any potential tax liability transfers from the auctioneer to the purchaser.

For the purpose of purchasing at auction, the purchaser must execute an Enterprise Zone Exemption Certificate on a "transaction by transaction basis". In other words, unlike a Resale Certificate, a new Enterprise Zone Exemption Certificate must be completed for each individual auction at which exempt purchases are made.

Note: Enterprise Zones located in other states are not recognized by the Kentucky Sales and Use Tax law.

Machinery for New and Expanded Industry: Machinery purchased or leased for new and expanded industry in Kentucky which meets certain requirements is exempt from Kentucky Sales and Use Tax. In accordance with KRS 139.170, the tangible personal property must meet the four following requirements:

1. It must be machinery.
2. It must be used directly in the manufacturing process.

3. It must be incorporated for the first time into a plant facility located in Kentucky.
4. It cannot replace other machinery.

Requirement number three makes it very unusual for machinery sold at auction in Kentucky to qualify as Machinery for New and Expanded Industry. However, if the machinery does qualify then a New and Expanded Industry Exemption Certificate (Form 51A111) must be completed, signed, and maintained.

Motor Vehicles: Motor vehicles, including motorcycles, which are licensed for highway uses, are not subject to Sales or Use Tax when sold at retail. These vehicles are subject to Motor Vehicle Usage Tax when transferred and registered at the local county clerk's office.

For more information regarding the Motor Vehicle Usage Tax please telephone your local county clerk's office or the Kentucky DOR Motor Vehicle Usage Tax Section at (502) 564-4455.

Note: The Motor Vehicle Usage Tax does not apply to boats, boat trailers, or other types of trailers.

Boats: Personal and recreational boats and boat trailers are taxable and are treated like any other tangible personal property. Even if the boat and/or boat trailer are/is "registered" or "with title," the auctioneer is still responsible for the collection of the Sales Tax. Commercial ships and vessels may qualify for exemption from the Sales and Use Tax if they are to be used to transport property or persons for hire.

Note: Kentucky Sales and Use Tax law does not contain an exemption for "Documented Vessels."

Trailers: Trailers designed to be attached to a bumper or trailer hitch are subject to Sales Tax regardless of whether or not the trailer is "with title" or "licensed." It is the responsibility of the auctioneer (not the county clerk's office) to collect the Sales Tax on all non-exempt trailers sold at auction.

Semi-trailers: The sale of a semi-trailer or a trailer designed to be supported by a mounting placed in the bed of a pick-up truck is exempt and not subject to Sales Tax. A semi-trailer/trailer is defined by KRS 189.010 to mean a vehicle:

- Designed to have its front-end supported by a motor truck or truck tractor, and
- Intended for the carrying of freight or merchandise, and
- Having a load capacity of over one thousand (1,000) pounds.

Based on this definition, a goose neck (fifth wheel) trailer intended for carrying freight/merchandise would be exempt from the Sales and Use Tax. Whether or not a semi-trailer is "with" or "without" title, and whether or not a semi-trailer is going to be used "on" or "off" the road is immaterial. All semi-trailers which conform to the above definition, including semi-trailers used for storage, are exempt from Sales Tax.

Note: It is the Revenue Cabinet's position that a fifth wheel travel trailer would not be exempt. Accordingly, Sales Tax applies to all travel trailers.

Mobile Homes: Manufactured homes (mobile homes) that have been placed on blocks or a foundation are considered real property when being sold as a part of the land. If the buyer is required, as a condition of the sale of the manufactured home to move the manufactured home from its location, then the transaction is considered a sale of tangible personal property and Sales Tax applies.
